

9-114.000

THIRD PARTY INTERESTS

- 9-114.100 State and Local Real Property Taxes in Civil and Criminal Forfeiture Cases**
 - 9-114.110 Payment of Interest and Penalties on State and Local Real Property Taxes**
 - 9-114.200 Waiver of Costs to Owner Victims in Remission Cases**
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9-114.100 State and Local Real Property Taxes in Civil and Criminal Forfeiture Cases

In civil and criminal forfeiture cases, the United States will pay standard ad valorem property taxes up to the date of entry of an order of forfeiture. Payment of taxes upon forfeited properties is permitted when:

- A. The properties have not yet been sold, or
- B. The properties are the subject of pending litigation regarding payment of taxes, *provided however*, that:
 - a tax claim was filed with the federal district court prior to entry of the order of forfeiture; or
 - a valid lien had been recorded among the pertinent land records giving the federal district court notice of the tax claim prior to entry of the order of forfeiture. *See* the Criminal Resource Manual at 2246.

9-114.110 Payment of Interest and Penalties on State and Local Real Property Taxes

The following policy is meant to ensure consistent national treatment of the payment of interest and penalties on state and local taxes on forfeited real property:

- A. The United States will pay interest but not penalties on overdue taxes;
- B. The formula for the rate of interest is set forth in 28 U.S.C. § 1961(a);
- C. Higher rates of interest may be paid where the taxing authority has incurred out-of-pocket interest expenses in excess of the rate specified by § 28 U.S.C. 1961(a), e.g., where tax certificates have been sold to private investors;
- D. United States Attorneys, with the concurrence of Asset Forfeiture and Money Laundering Section, Criminal Division, may agree to a higher rate of interest provided that such higher rate is not punitive; and
- E. Interest thereon may only be paid up to the amount realized from taxes and the sale of the property.

9-114.200 Waiver of Costs to Owner Victims in Remission Cases

It is the policy of the Department of Justice to waive the payment of certain costs and expenses incident to the seizure and forfeiture of property that is being restored through remission to an owner victim of the underlying offense when the owner victim is a natural person. This policy does not apply to non-owner victims. The costs

and expenses subject to waiver are property management and case-related expenses incurred in connection with the forfeiture and include storage, maintenance, and security costs, as well as those costs incurred in connection with the requirement that the government provide notice of the action to potential claimants. It is preferable to restore forfeited property to owner victims, thus avoiding disposition costs. In the event property must be sold to restore property to one or more victim owners, the costs of sale will not be waived. Nor should costs be waived where the petitioner seeking remission as an owner victim is an agency of a state or the federal government. *See* the Criminal Resource Manual at 2247.